

# Senator Matt McCoy, the first gay to be so elected in the state was targeted by the U.S. Attorney.

The NATO Ambassador nominee in the incoming administration in 2025 is Matthew Whittaker.

Matthew Whittaker, U.S. Attorney for Iowa prosecuted Iowa Senator Matt McCoy, a gay Democrat, for extortion after a two-year FBI investigation beginning in 2005.

In 2005, it was found that there was no basis for the charges. The Grand Jury deliberated 90-minutes, which included the time for lunch, before returning their 'no evidence of a crime' finding.

The following contains a series of articles detailing some of the published news items surrounding the investigation and prosecution. No official documentation – the indictment, the investigation, any reports, or any other primary documentation has been found.

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## The Advocate

# A STATE SENATOR FROM IOWA DEFENDS HIS INNOCENCE AFTER A FEDERAL PROBE FINDS HE MAY HAVE HAD A HAND IN A CASE OF EXTORTION.

JIM FERGUSON

AUGUST 15 2007 12:00 AM EST



Iowa's highest ranking openly gay elected official has been indicted by the U.S. Department of Justice for extortion, facing fines up to \$250,000 and 20 years in prison. State Senator Matt McCoy, 41, allegedly attempted to obtain \$100 for each installation of a home security system from an ADT dealership in Des Moines, according to the U.S. Department of Justice.

The motion-sensor system, called QuietCare, is placed in senior citizens' homes to keep track of their safety. According to the indictment, McCoy collected about \$2,000 from the company between Dec. 29, 2005, and March 24, 2006.

## A clear target

McCoy, who was outed on the senate floor in 2003 by ultraconservative Republican Senator Ken Veenstra, has been reelected several times since first winning his state House seat in 1992. Veenstra lost his bid for reelection in 2004 after outing his colleague, as did several other antigay Iowa officials.

*"Since coming out as an openly gay man," McCoy said, "I have been a continuous target of groups targeting gays to advance their own agendas of intolerance and hate. Clearly, there is significant speculation about what has motivated federal officials to take this action against me."*

The senator says that U.S. Attorney Matthew Whitaker, an admitted conservative, targeted him to show his conservative loyalty to the Bush administration in the wake of the U.S. Attorney firings by the Department of Justice. McCoy is an outspoken advocate for gay rights issues, including an efforts to defeat a proposed gay marriage ban as well as to confirm an openly gay man to the state's Board of Education and also to ensure a \$400,000 allocation to provide drugs for AIDS patients. McCoy has successfully pushed an anti-bullying law in public schools and antidiscrimination laws for LGBT people in housing and the workplace.

Local observer David Yepsen noted the unique circumstances of the case. *"[T]he indictment was unprecedented and is full of political wrinkles," he wrote in a March 15 *Des Moines Register* column. "Old-timers at the Statehouse say that although legislators have been charged with state misdemeanors, they can't recall a sitting legislator being indicted by the federal government"*

## **15-month investigation**

Two FBI agents arrived on McCoy's doorstep at 6:30 a.m. in April 2006; this was his first notification that he was under federal scrutiny. The Department of Justice had begun its investigation four months prior by reading e-mails, listening to telephone conversations, scouring bank records, and by questioning friends and colleagues.

McCoy said that Whitaker approved the secret taping of McCoy's conversations with an acquaintance he'd met at Alcoholics Anonymous meetings.

*"We do not know how they came to investigate me," McCoy said. "We believe that at some point an individual I was looking at going into business with got involved with [federal investigators] because they were jealous or in trouble. This person had a history of some petty crimes and issues related to drugs and alcohol, which I was aware of while we were discussing going into business together!"*

After exploration, the FBI brought evidence of extortion to Whitaker through 12 hours of recorded discussions. McCoy said that after he and his legal counsel reviewed the tapes, it's nearly impossible to extract any evidence of extortion. *"What they've done is taken these tapes and parsed them together, to somehow speculate that this whole attempted extortion revolved around this conversation."*

## **Facing the gavel**

In the wake of the indictment, the Polk County (Iowa) Democratic Central Committee voted overwhelmingly to approve a resolution stating their support and confidence in McCoy.

*"Senator McCoy has served the state of Iowa in an impeccable manner." Polk County Democratic chairman Tom Henderson said in a statement. "Matt has always been willing to assist those in need, whether it is assisting his constituents with their problems or providing for needed health care programs for our less fortunate."*

McCoy says that he is looking forward to his day in court to clear his name. To do so has already cost him \$65,000 in attorney fees and for hiring a private investigator. He expects the total bill to reach \$100,000 by the time the trial is over. A trial has been scheduled for early October.

*"I've served two terms in the house, and this is my third term in the senate,"* McCoy said. *"In all my years of elected office, I've never seen anything like this."*



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## Indicted State Senator Claims Prosecutor Misconduct

Updated: 4:05 AM CDT Oct 18, 2007

Infinite Scroll Enabled



**DES MOINES, Iowa** — Lawyers for State Sen. Matt McCoy Thursday filed papers asking that all charges against him be dismissed and he claims prosecutorial misconduct by the U.S. Attorney's office in Des Moines.

McCoy, a Democratic state senator from Des Moines, was indicted on federal extortion charges in connection with a business deal. The FBI conducted an undercover investigation that included putting a wiretap on a business associate of McCoy's. His trial was scheduled to start at the federal courthouse in Des Moines later this month.

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The newly filed documents by McCoy's defense team state that federal prosecutors have withheld evidence, provided deliberately false and misleading answers to McCoy's lawyers and manipulated the federal grand jury that indicted McCoy.

In particular, McCoy's documents state that an assistant U.S. Attorney told a judge earlier this year that the government had not paid an informant in the case, Thomas Vasquez. However, defense lawyers state that the feds gave them new paperwork on Oct. 9 indicating that Vasquez had been paid \$2,265 for time he spent helping prosecutors. Vasquez is a former business partner with McCoy to sell a system called ADT QuietCare, a set of sensors to be placed in the home of elderly people that could detect a lack of motion and alert family of a possible health care problem. Vasquez and McCoy had a disagreement about how much McCoy should be paid for his help finding clients. Vasquez reportedly wore a wiretap that was used to help obtain a grand jury indictment of McCoy.

McCoy's lawyers also allege that federal prosecutors carefully selected which segments from the wiretap tape to play for the grand jury. Specifically, the paperwork says prosecutors did not play a part of the tape where McCoy said "nothing" would happen if he wasn't paid the money he felt he'd earned.

The court filing said, "The cumulative effect of the abuses by the government in this case resulted in an unwarranted indictment and has expressly prejudiced Defendant in his preparation for trial. Defendant's investigation and preparation for trial has been predicated on the government's representation that Vasquez was not being paid for his efforts by the FBI."

McCoy's attorney asks the judge to drop all charges. If that can't be granted, they ask for a delay in the Oct. 29 trial date and that the U.S. Department of Justice appoint a special prosecutor to investigate the government's handling of the case.

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U.S. Attorney Matt Whitaker told KCCI, "We think the motion is without merit, and we'll file a response shortly. The prosecutors in this case have done a good job and I fully back them."

# Jury finds state senator not guilty of extortion

by admin | Dec 13, 2007

A federal jury today found State Senator Matt McCoy not guilty of extortion charges. Thomas Vasquez accused the Democrat from Des Moines of abusing his political position to obtain money from Vasquez in a business deal.

McCoy defense attorney Monte Brown says he's not surprised with the quick verdict. Jurors returned their decision just two hours after closing arguments ended. "The key is that (McCoy) didn't do what they say he did," Brown told Radio Iowa, "and their factual basis was hitched to a story by this Mr. Vasquez and I think we proved that his story was flawed."

During the trial, jurors heard several tape recordings of conversations between Vasquez and McCoy that Vasquez made for the FBI. Brown says, "There was a larger back story that corroborated and made sense of what Matt was saying when he said things on the tapes."

Brown says there were markers that clearly showed that McCoy knew what he was doing and didn't try to use his position as a lawmaker to demand money to which he wasn't entitled.

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<https://www.bleedingheartland.com/2008/02/14/mccoy-to-pay-fine-to-settle-ethics-investigation/>

## McCoy to pay fine to settle ethics investigation

- Thursday, Feb 14 2008
- [desmoinesdem](#)

As you may recall, Iowa Senator Matt McCoy of Des Moines [was acquitted in December](#) on federal charges of attempted extortion. The case against McCoy was weak and [raised questions about whether partisan politics influenced his indictment.](#)

One detail that emerged from the trial was that in December 2005, Des Moines businessman John Ruan III (a Republican) wrote a \$2,500 check to McCoy with the words “Mike Blouen” in the memo line. A few days later, McCoy contributed \$2,500 to the gubernatorial campaign of fellow Democrat Mike Blouin.

That disclosure led to an ethics investigation, which has now been settled, [according to the Des Moines Register:](#)

A prominent Des Moines businessman and an Iowa state senator have each agreed to pay \$1,250 to settle allegations that one used the other to pass an illegal campaign contribution to a former candidate for governor.

John Ruan III and state Sen. Matt McCoy will pay the fines as part of a deal to end a state ethics investigation into a series of checks between the men and the failed candidate, Democrat Mike Blouin.

The settlement, approved by the Iowa Ethics and Campaign Disclosure Board late Monday, includes assertions that neither Ruan nor McCoy "intended to violate or willfully violated" campaign law with a December 2005 check from McCoy to Blouin.

Charles Smithson of the ethics board called the settlement "a fair resolution of the matter for all involved" and said Blouin would not have to return the disputed \$2,500 contribution because "there was no evidence that he knew anything about the underlying situation."

# Des Moines Register

REKHA BASU | Opinion *This piece expresses the views of its author(s), separate from those of this publication.*

## Why did Matthew Whitaker prosecute this openly gay state lawmaker?



**Rekha Basu**

The Des Moines Register

Published 3:28 p.m. CT Nov. 7, 2018 | Updated 4:09 p.m. CT Nov. 8, 2018

*Editor's note: This column was originally published Dec. 21, 2007, as "Question lingers: Why was McCoy prosecuted?"*

Before the feds' case against state Sen. Matt McCoy went to the jury last week, the prosecutor made an appeal. Referring to her star witness, she told jurors, "The government is not asking that you take Tom Vasquez home with you for Christmas. We're just asking that you consider his testimony."

A good thing, too. Vasquez, McCoy's former business associate, was so thoroughly discredited during the nine-day trial that you might not want to share an elevator ride with him — much less take him home.

### RELATED:

[Trump names Iowa native Matt Whitaker acting attorney general after Sessions resigns](#)  
[Who is Matt Whitaker?](#)

Which is to say that the federal government's case against an Iowa state senator — a rarity to begin with — was based on the word of a man former associates depicted as a drug user, a deadbeat and an abuser of women; a man so shady even his Alcoholics Anonymous sponsors called him "a pathological liar."

Not surprisingly, it took a Des Moines jury less than two hours to acquit McCoy.

But even if the outcome is the right one, the outrage is that the federal government would pour two years and all sorts of taxpayer money (\$2,600 of which went right into Vasquez's pocket) into building a case over a private business dispute.

Why would the federal government contact, wire and pay an informant without checking him out — or, worse, despite knowing he was disreputable? It has all the earmarks of a politically motivated witch hunt.

The indictment accused McCoy of attempting to extort money from Vasquez's employer, Security Plus, by using his position as a lawmaker to threaten the company with economic harm. But the jury believed McCoy's version, that as a consultant to Security Plus who was helping to create demand for its QuietCare product, he was due a commission of \$100 for each system sold. Vasquez in court acknowledged offering the same commission to others.

McCoy threatened to form a competing company if he wasn't paid. Vasquez told police that McCoy also threatened to use his political influence to ensure Security Plus wouldn't be a Medicaid vendor.

The feds got wind of this, contacted Vasquez and wired him to tape conversations with McCoy. Vasquez and his boss then paid McCoy about \$2,000 of the government's money, which was the basis of the extortion attempt allegation.

Any time a public official conducts private business with a government entity (e.g. Medicaid), it has potential ethical pitfalls. McCoy claimed he sought and was given approval from Senate officials. The ethics rules may need amending. But that's not the point.

The U.S attorney general's office is already under investigation for firing federal prosecutors who wouldn't allow themselves to be used as political pawns for the administration. Attorney General Alberto Gonzales resigned in August over it.

McCoy is a Democrat. Matthew Whitaker, the U.S. attorney who launched the case, is a Bush-appointed Republican. McCoy is openly gay. Whitaker has ties to the evangelical Christian community. McCoy's lawyers have charged that the grand-jury process resulting in an indictment against McCoy was tainted because prosecutors selectively played jurors portions of taped conversations.

And then there are the conflicting stories about payments made to Vasquez as an informant. Asked by McCoy's defense if he was paid, an assistant U.S. attorney, Mary Luxa, said he wasn't. But memos later showed not only that he was paid but that Luxa authorized the payments.

In a Des Moines radio interview in March, Whitaker spoke of his priorities as a federal prosecutor: "We're trying to protect the people, the children and our way of life..." he said.

"We're trying to take the worst of the worst and put them in federal prison..."

This is the worst of the worst?

McCoy's defense tried to get access to memos between the FBI, Justice Department and local U.S. attorney's office, but was turned down in U.S. District Court. His lawyers wanted to see whether anything indicated a political motivation. There's nothing else they can do, says attorney F. Montgomery Brown. "Prosecutors have near absolute immunity. There's just no remedy there."

There is one, but it would have to come from a member of Congress. Sens. Tom Harkin or Chuck Grassley can and should request access to the correspondence. Voters and taxpayers deserve to know whether this was just a poorly conceived and badly bungled effort by the government — or whether something else was going on.

Rekha Basu is an opinion columnist for The Des Moines Register.

Contact: [rbasu@dmreg.com](mailto:rbasu@dmreg.com) Follow her on Twitter @RekhaBasu and at Facebook.com/ColumnistRekha. Her book, "Finding Her Voice: A collection of Des Moines Register columns about women's struggles and triumphs in the Midwest," is available at [ShopDMRegister.com/FindingHerVoice](http://ShopDMRegister.com/FindingHerVoice)

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NPR NEWS

# Who Is Acting Attorney General Matthew Whitaker?

By Miles Parks

Published Nov 8, 2018 1:41 PM

MARY LOUISE KELLY, HOST:

When President Donald Trump forced out Attorney General Jeff Sessions yesterday, he named Sessions' chief of staff, Matt Whitaker, acting attorney general. That puts Whitaker in charge of special counsel Robert Mueller's Russia investigation.

Democrats are already calling for Whitaker to recuse himself. But the former U.S. attorney who has a long history of involvement in Republican politics hasn't given any indication he plans to give an inch. NPR's Miles Parks has this profile.

MILES PARKS, BYLINE: Twenty-eight years ago, Matt Whitaker was starring for an Iowa Hawkeyes team headed for the Rose Bowl.

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UNIDENTIFIED ANNOUNCER: Into the end zone - touchdown.

The Hawkeyes have rung another one as Matt Whitaker, the tight end, slips in.

PARKS: Now Whitaker's taking the spotlight in Washington as President Trump's pick to be the acting attorney general for the United States. He was U.S. attorney for the Southern District of Iowa from 2004 to 2009. The first thing to understand about him is that he's a staunch conservative both in politics and his Christian faith. He worked on Rick Perry's presidential campaign in Iowa in 2012 and even ran in the Republican primary for the open Senate seat there in 2014.

BERIT BERGER: He has taken some incredibly extreme views on legal issues.

PARKS: That's Berit Berger, the executive director of the Center for the Advancement of Public Integrity at Columbia Law School.

BERGER: For example, he discusses that he approaches things - legal issues - you know, he wants to see them first from the Christian perspective and then from the constitutional perspective. That is not necessarily something we are used to hearing the attorney general say.

PARKS: But what Democrats say they are most worried about is Whitaker's views on special counsel Robert Mueller's investigation. He's been an outspoken critic of the possibility that Mueller could be looking into President Trump's finances. Whitaker wrote a CNN op-ed titled "Mueller's Investigation Of Trump Is Going Too Far." In July of last year, he even laid out the groundwork for how a new attorney general could defang the Mueller investigation without firing the special counsel outright.

(SOUNDBITE OF ARCHIVED RECORDING)

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MATT WHITAKER: I could see a scenario where Jeff Sessions is replaced with a recess appointment. And that attorney general

doesn't fire Bob Mueller, but he just reduces his budget so low that his investigation grinds to an absolute – almost a halt.

DON LEMON: To dwindle his resources.

WHITAKER: Right.

PARKS: For that reason, Democrats are calling for Whitaker to recuse himself from the Russia investigation just as Sessions did. Also, Whitaker previously worked on the Iowa campaign for Trump's presidential campaign staffer Sam Clovis, who's figured into the investigation. But Whitaker has given no indication he plans to give up control. His friends say he can balance his politics with the job he's been given. Chuck Larson is a former U.S. ambassador to Latvia, and he went to law school with Whitaker. He says politics won't play into his decision-making.

CHUCK LARSON: Matt is a lawyer's lawyer. He is not a politician who also has a law degree. He's a very skilled attorney. But he also has good political instincts, and he's pragmatic.

PARKS: But Iowa state Senator Matt McCoy has a different opinion. When Whitaker was U.S. attorney back in 2007, he indicted McCoy on account of fraud. McCoy's a Democrat and the first openly gay member of the Iowa Legislature. He says the charge was clearly politically motivated when you consider the outcome.

MATT MCCOY: After a nine-day trial, a jury of my peers in roughly 20 minutes came up with a unanimous not guilty verdict, and I was acquitted, fully acquitted. And so I know Matt

Whitaker will misuse his office because I've seen it. And I know that he will misuse his power because he's done it.

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PARKS: Roxanne Conlin, who served in the same position as Whitaker as U.S. attorney for the Southern District of Iowa, said she was horrified when he was selected as acting attorney general.

ROXANNE CONLIN: I have every single confidence that politics will play a role in his service as acting attorney general.

PARKS: President Trump has not indicated whether Whitaker will be considered for the permanent job as U.S. attorney general. Miles Parks, NPR News, Washington. Transcript provided by NPR, Copyright NPR.

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# Des Moines Register

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## POLITICS

# Iowa Democrat accuses Matt Whitaker of 'witch hunt' in decade-old prosecution

**Stephen Gruber-Miller and William Petroski** The Des Moines Register

Published 4:06 p.m. CT Nov. 9, 2018 | Updated 7:00 p.m. CT Nov. 12, 2018

An Iowa Democrat argues acting Attorney General Matt Whitaker is ill-qualified to run the U.S. Justice Department after Whitaker's office prosecuted him over a decade ago.

Whitaker is a former U.S. attorney from Iowa. Trump appointed him to replace Jeff Sessions on an interim basis. Whitaker had been Sessions' chief of staff.

**More:** Trump claims he doesn't know Whitaker, whom he previously told Fox News he knows

Democrats say they doubt Whitaker can run the Justice Department fairly, given his criticism of Special Counsel Robert Mueller's investigation into interference in the 2016 election and an opinion piece for USA Today in 2016 arguing he would have indicted Hillary Clinton.

For Iowa Democrats, concerns about Whitaker's politics are nothing new.

**More:** Opinion: Why did Matthew Whitaker prosecute this openly gay state lawmaker?

State Sen. Matt McCoy, D-Des Moines, who was prosecuted and acquitted on a federal extortion charge in 2007 while Whitaker was U.S. attorney in Des Moines, said he couldn't think of a more ill-qualified person to become acting attorney general. McCoy said he strongly believes the decade-old federal case brought against him was politically motivated.

In a column published Sunday in Politico, McCoy said Whitaker's prosecution of him amounted to a "witch hunt," borrowing a phrase often used by Trump and Whitaker to refer to the Mueller investigation.

"Whitaker's office clearly wanted to give the evangelical right within the Republican Party a trophy, and that trophy was me — one of the state's most prominent young Democrats at the time," McCoy, who was the first openly gay member of the Iowa Legislature, wrote in Politico.

"I left in debt, and with and a shattered sense of security. Whitaker left noting his 'complete confidence in the jury system,'" he wrote in the column.

McCoy said last week he "absolutely" believes Whitaker will try to subvert Mueller's investigation of Russian meddling in the 2016 presidential election.

"I think he will be very dangerous in that role," McCoy said in an interview. "It is beyond me how he could have risen to such a high rank.

"People should be very concerned with Whitaker's elevation to acting attorney general," McCoy wrote in the Politico piece. "The DOJ is supposed to be blind to politics. Whitaker clearly is not."

McCoy was accused of trying to use his influence as a senator to force a business partner to pay him \$2,000. But a federal jury deliberated less than two hours before returning its "not guilty" verdict.

**More:** What has new Acting Attorney General Matt Whitaker said about the Mueller investigation?

Whitaker, now 49, had denied assertions of political motivation for pursuing the case. He issued a statement after the verdict that said he had complete confidence in the jury system and that he accepted McCoy's acquittal.

Montgomery Brown, a Des Moines lawyer who represented McCoy in the case, said he and others on McCoy's defense team met with Whitaker and the FBI before the indictment was handed down to try to convince him no crimes had occurred.

"They were not receptive to our interpretation of what the jury ultimately determined was baseless accusations," Brown said.

**More:** 'Protect Mueller', 100+ protesters demand on steps of Iowa Capitol

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## Whitaker's controversial prosecution of a gay lawmaker



*Iowa State Senator, Matt McCoy. Official photo.*

When Iowa state Sen. Matt McCoy learned Donald Trump had appointed Matthew Whitaker to be acting attorney general of the United States, he was aghast -- he believes Whitaker was behind a politically motivated prosecution that was personally "devastating" to him.

It started in 2007, when McCoy was a rising Democrat in state politics, and the state's first openly gay lawmaker. Whitaker was the US attorney for Iowa's Southern District at the time.

A grand jury indictment accused McCoy of using his elected office to try to extort \$2,000 from a Des Moines home security company where McCoy was a consultant. The charges came after an elaborate undercover investigation in which the FBI had McCoy's business partner wear a recording device. McCoy demanded money he says he was owed for his consulting work.

In an interview with CNN this week, McCoy said Whitaker "certainly tried to prove that I had done something really awful when, in fact, it was a garden variety business dispute that should have been handled in small claims court, if anywhere."

The trial lasted more than a week, with prosecutors trying to prove the business partner never agreed to pay McCoy for his consulting and the defense torpedoing the partner's testimony because he couldn't recall many details and admitted he had trouble with sobriety, according to Des Moines Register articles on the trial.

In the end, the jury reached a not guilty verdict in an hour and a half, including time for lunch, according to the Des Moines Register.

"I believe it was a political prosecution, there's no doubt in mind, I'm 100 percent certain it was," McCoy said, adding he believes he was targeted not just because he's a Democrat, but also because he's gay. "As US attorney (Whitaker) spoke at Christian Coalition events and would often refer to bringing God into his decision-making process and being guided by God's hand," McCoy said, "and so I believe that he was very much resentful of my lifestyle and I believe that played a factor in it."

Whitaker has been facing questions from reporters about whether the case was politically motivated since the day the indictment was announced in 2007. An editorial in the Des Moines Register soon after McCoy was acquitted called for the government to compensate McCoy for his legal fees and questioned, "Was the McCoy prosecution a product of poor judgment, inexperience, misplaced zeal or partisan politicking? Perhaps all of the above."

A Justice Department official sent a statement to CNN defending the case. "As a U.S. Attorney, then-US Attorney Whitaker had a responsibility to uphold the rule of law and pursue credible allegations of illegal activity. The Department of Justice signed off on bringing the case, the FBI conducted an independent investigation, and career prosecutors handled the case throughout its duration. The jury's verdict does not negate the obligation of law enforcement agencies to open cases when they determine laws may have been broken."

McCoy said the two-year legal battle exhausted his finances and left a lasting impact on his life. "I was putting my whole family in an emotional state as a result of that. I had elderly parents, I had a young son ... It took an emotional toll on the people that I loved and it was completely unnecessary."

McCoy continued as a state senator for 11 more years, a position he will hold until January. He was just elected to the Polk County Board of Supervisors, winning with 82 percent of the vote.

Whitaker left his position as US attorney in 2009 and ran unsuccessfully for the US Senate in 2014. He also unsuccessfully vied for a seat on the Iowa Supreme Court, then went on to create the Foundation for Accountability and Civic Trust, a Washington nonprofit funded almost entirely by dark money. In 2017, he became former Attorney General Jeff Sessions' chief of staff until this week, when he stepped into his former boss' job.

*By Drew Griffin, Collette Richards and Patricia DiCarlo, CNN via The-CNN-Wire™ & © 2018 Cable News Network, Inc., a Time Warner Company. All rights reserved.*

*The Gayly 11/10/2018 @ 11:09 a.m. CST.*

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## POLITICS (/POLITICS)

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**PRIMARY SOURCE**

**I Was the Subject of a Political 'Witch Hunt.' Matt Whitaker Directed It.**

Trump's interim pick for AG was part of an investigation that was covered in partisan fingerprints.

By MATT MCCOY | November 11, 2018

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*Matt McCoy is a state senator from Iowa's 21st District.*

On the morning of April 7, 2006, two FBI agents knocked on my door. They informed me that I was being investigated about issues related to bribery and violation of the Hobbs Act.

As I tried to recall what the Hobbs Act entailed (robbery and extortion, mostly), they prolonged their visit by pressing “play” on a tape recorder. I was shocked to hear a conversation I had conducted with my business colleague, Tom Vasquez.

That conversation detailed a dispute we had, regarding my consulting with Vasquez about a business that sold monitoring systems for senior citizens in Iowa. The federal government believed that in my demanding payment for those services, and threatening to strike out on my own as a competitor, I had made what amounted to a threat to use the power of my office against him.

The FBI claimed this threat was extortion by an elected Iowa state senator. I explained how I had filed the required Senate financial disclosure forms, and that, as citizen legislators who work in the capital for less than one-third of the year, we have to have other employment, hence this dispute. They disagreed, arguing that my comments amounted to an attempt to coerce Vasquez. The *Des Moines Register* reported during my eventual trial that numerous Iowa officials had “denied threats by McCoy, and insisted that no single senator would have the power to influence purchasing decisions” by the state.

However, not satisfied with snaring just me in their net, the agents went on to say that if I gave them the names of other elected officials engaged in illegal activities, the district court might be inclined to look favorably on me. The district office was led by a prosecutor named Matt Whitaker, then the U.S. attorney for the Southern District of Iowa. Whitaker, an avowed conservative who has run for state office multiple times as a Republican, was part of what would come to be widely considered a politically motivated effort by the Department of Justice to investigate Democratic officeholders.

At the time, David Yepsen of the *Register* wrote: “It appears the U.S. attorney, Matt Whitaker, is aggressively going after the city’s south-side Democratic organization and the way it does business.” You could call it due diligence, and, to be clear, the investigation and secret recording of my conversations was done in a fully legal manner. But if you consider Whitaker’s naked partisanship, as Yepsen did, and the fact that a study at the time showed that the Ashcroft and Gonzales Departments of Justice prosecuted Democrats to an extent grossly disproportionate to Republicans, you could refer to it as something very different. In Whitaker’s own recent words: a “witch hunt.”

The FBI agents who visited me that day were saying that if I snitched on my Senate colleagues, Whitaker’s office might be lenient with me. This is all standard practice for the Department of Justice, of course, and similar to the tactics that special counsel Robert Mueller, who Whitaker has repeatedly criticized, has used in his ongoing investigation—but

ignoring the fact that I had no knowledge of what I was supposed to have done illegally, let alone knowledge of illegal actions on the part of others, I would never have played that game.

This was the first I knew I was under federal scrutiny. The FBI paid Vasquez to record 12 hours of our conversations. They turned over the tapes to the grand jury. The jury returned a one-count indictment against me for attempted extortion under the Hobbs Act, which more specifically is a federal anti-racketeering law used in cases involving public corruption. It sets a low bar for conviction of public officials. The charge stemmed from the threat to form my own company. The FBI admitted to paying at least \$2,200 to Vasquez for clandestinely taping our conversations. If I were convicted, it could have meant a \$250,000 fine and 20 years imprisonment.

Whitaker's entire case was built on the word of Vasquez, the star witness, whose credibility was undermined by a litany of personal issues he acknowledged under oath. In cross-examination, Vasquez had amnesia. "I can't recall," "I don't remember" was his response to over 100 questions.

That the FBI paid Vasquez for his testimony was unheard of. The former editor of the *Des Moines Register*'s editorial page, Gilbert Cranberg, stated, "The local criminal defense bar was stunned that the government had to pay the alleged victim for his help prosecuting his purported victimizer," in an editorial for the *Nieman Watchdog*. In a local news journal, he wrote: "Was McCoy's prosecution a product of poor judgment, inexperience, misplaced zeal or partisan politicking? Perhaps some or all of the above."

I was eventually acquitted after the jury deliberated for less than 25 minutes, according to the foreman. Cranberg noted in the *Register*, "The case against McCoy was so anorexic that not one of the 12 jurors considered it worth protracted consideration." One of my attorneys, Montgomery Brown, stated, "Ninety percent of federal court cases result in a conviction, and the swift 'not guilty' verdict indicates something was seriously wrong with Whitaker's case."

U.S. attorneys conveniently "forgot" that they approved to pay Vasquez to covertly tape his conversations with me, a revelation that came out in the wind-up to my trial. There were no consequences for this. In denying our motion to dismiss the case, the court said this was an unfortunate "lapse of memory." Had I had such a lapse, I would have been cuffed and hauled off to prison.

According to my attorney, Jerry Crawford, during the trial he walked over to the prosecuting attorneys and asked them to save face, saying, “Pull this case now. I’m embarrassed for the United States of America.” Both of the attorneys he spoke to, one of whom had been flown in from Washington, D.C., by the DOJ, said they were instructed to carry out the case to its fullest extent. Somebody in Washington—or in Whitaker’s office—was making this call, and the trial prosecutors didn’t have control over it. They knew they were out-lawyered, and they were getting slaughtered daily in court. But they couldn’t bring it to a close, which would have saved them both money and time.

Whitaker’s office clearly wanted to give the evangelical right within the Republican Party a trophy, and that trophy was me—one of the state’s most prominent young Democrats at the time. Whitaker is a social conservative who supported the Iowa Christian Alliance, the pre-eminent group in the state for like-minded conservatives. In 2014, he was executive director of the Foundation for Accountability and Civil Trust (FACT), a conservative watchdog, which *Slate* described as a “Dark Money-Funded Clinton Antagonist ... [which] largely publicized what it described as ethical lapses by prominent Democrats and requested that government agencies and law enforcement investigate them.”

People should be very concerned with Whitaker’s elevation to acting attorney general. The DOJ is supposed to be blind to politics. Whitaker clearly is not.

At the time, I did not realize the full implications of what was happening to me, which had echoes in national politics. The U.S. attorney general at the time, Alberto Gonzales, was involved in a scandal in which he was accused of firing eight U.S. prosecutors, who were all previously in good standing with the DOJ, for political reasons. The aforementioned study from the time suggests the DOJ was attacking the Democratic Party at its grass roots. Their insinuations of corruption sapped local Democrats of energy and created suspicion among their constituents.

At the time, the national Democratic Party had named me among the 100 up-and-coming Democratic leaders to watch. I was young. I was liberal. I was popular. I had never been defeated. I had flirted with running for Congress. And I was openly gay, which surely didn’t increase my popularity with social conservatives like Whitaker. Steve Deace, the conservative talk radio host, hosted Whitaker on his show in 2007 and referred to me derogatorily as “openly homo.” Whitaker said nothing, aside from protesting in favor of his impartiality. He said to Deace that he was “personally offended” by such accusations of partisanship, and that he “[didn’t] have time to direct investigations that I’m not specifically working on myself.”

Whitaker has attempted to establish his own career in Iowa politics. He lost a run for state treasurer in 2002, lost a Republican primary bid for the U.S. Senate in 2014, and was not selected for a seat on the Iowa Supreme Court despite angling for the job. It's hard to believe he could carry out the important job of United States attorney general with a sense of fealty to the law and to the Constitution, rather than to the Republican Party.

The government's invasion of my privacy during the case Whitaker's office brought against me was hardly unusual for such an investigation, but considering my innocence and exculpation it was appalling: I was followed, my conversations were recorded, and my financial records were seized. Family members, co-workers, legislative colleagues and acquaintances were questioned. My emails were read. The emails and financial records of a business colleague were subpoenaed. My reputation and future were damaged. The emotional stress took its toll on my physical and mental health. I lost both actual and potential income, along with my savings. When the DOJ wields its power in a partisan manner, it ruins lives. Whitaker almost ruined mine.

I left in debt, and with and a shattered sense of security. Whitaker left noting his "complete confidence in the jury system."

Hopefully that confidence endures to this day, regardless of what such a jury might have to say about his new benefactor.